



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,085	01/31/2002	Gunther Silberbauer	GR-48	2432

7590 01/11/2005

FRIEDRICH KUEFFNER  
317 MADISON AVENUE  
SUITE 910  
NEW YORK, NY 10017

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/066,085

Applicant(s)

SILBERBAUER, GUNTHER

Examiner

Mark A. Deuble

Art Unit

3651

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 22 October 2004 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See attachment.

*Kathy Matecki*

Katherine Matecki  
SPE  
Art Unit: 3654

## NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR

### 41.37(c)

The brief does not contain the items of the brief required by 37 CFR 41.37(c) under the appropriate headings and/or in the order indicated.

The brief does not contain a “Summary of Claimed Subject Matter” as required by 37 CFR 41.37(c). The heading on page 3 of the brief “Summary of the Invention” is inappropriate under the new rules for practice before the Board of Patent Appeals and Interferences and should be changed to “Summary of the Claimed Subject Matter.” Also note that the “Grouping of Claims” section is no longer required.

The summary of claimed subject matter contained in the above mentioned section of the brief is correct.

The brief does not contain a “Summary of Claimed Subject Matter” as required by 37 CFR 41.37(c). The heading on page 5 of the brief “Issues” is inappropriate under the new rules and should be changed to “Grounds of Rejection to be Reviewed on Appeal.”

The argument section brief does not contain a separate heading for each ground of rejection as required by 37 CFR 41.37(c). While each of the references is discussed under a separate heading, this is inappropriate because each of the references was used as the basis for two different grounds of rejection (one ground under 35 U.S.C. 102 and a separate ground of rejection under 35 U.S.C. 103). Thus, the brief needs separate headings for the rejection of claims 1 and 4 as anticipated by Mueller et al. under 35 U.S.C. 102(e) and for the rejection of claims 1 and 3-4 as unpatentable over Mueller et al. under 35 U.S.C. 103(a).

Art Unit: 3651

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (703) 305-9734. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher P Ellis can be reached on (703) 308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md